

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROGER CLEO MARTIN,

Petitioner,

v.

JOE HOLINGSHED, et al.,

Respondents.

Case No. 1:17-cv-921

HON. JANET T. NEFF

OPINION AND ORDER

This is a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R) recommending that the petition be denied. The matter is presently before the Court on Petitioner's objection to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of the portion of the Report and Recommendation to which objection has been made. The Court denies the objection and issues this Opinion and Order. The Court will also issue a Judgment in this § 2254 proceeding. *See Gillis v. United States*, 729 F.3d 641, 643 (6th Cir. 2013) (requiring a separate judgment in habeas proceedings).

Petitioner presents three grounds for habeas relief: (I) Radical Defect in Jurisdiction, (II) Illegal Search and Seizure, and (III) Ineffective Assistance of Counsel. The Magistrate Judge determined that the grounds are noncognizable and/or meritless. Petitioner's objection concerns only the Magistrate Judge's analysis of his first ground presented. Specifically, Petitioner argues that the Magistrate Judge erred in applying the standards of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104-132, 110 Stat. 1214 (AEDPA) to Ground I because "the AEDPA

only applies to legal valid cases” (Pet’r Obj., ECF No. 17 at PageID.700). According to Petitioner, “the circuit court did not have jurisdiction at the time of arraignment” because there was “no probable cause reserved for review in court that [he] was running a drug house” (*id.*). Petitioner opines that his “entire case is illegal and void” and should be dismissed (*id.* at PageID.701).

As set forth more fully by the Magistrate Judge in the Report and Recommendation, the determination whether a state court is vested with jurisdiction under state law over a criminal case is a function of the state courts, not the federal courts, and it is well-settled that a purported violation of state law does not provide a basis for federal habeas relief (R&R, ECF No. 16 at PageID.689-690). Petitioner’s objection serves merely to demonstrate his disagreement with—and not any error in—the Magistrate Judge’s conclusion that this Court is bound by the state court’s determination that jurisdiction over Petitioner was established. Petitioner’s objection is properly denied.

Having determined Petitioner’s objection is properly denied, the Court must further determine pursuant to 28 U.S.C. § 2253(c) whether to grant a certificate of appealability as to the issues raised. *See* RULES GOVERNING § 2254 CASES, Rule 11 (requiring the district court to “issue or deny a certificate of appealability when it enters a final order”). The Court must review the issues individually. *Slack v. McDaniel*, 529 U.S. 473 (2000); *Murphy v. Ohio*, 263 F.3d 466, 466-67 (6th Cir. 2001). “Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack*, 529 U.S. at 484. Upon review, this Court finds that reasonable jurists would not find the Court’s assessment of Petitioner’s § 2254 claims debatable or wrong. A certificate of appealability will therefore be denied.

Accordingly:

IT IS HEREBY ORDERED that the Objection (ECF No. 17) is DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 16) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the petition for habeas corpus relief (ECF No. 1) is DENIED for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that a certificate of appealability pursuant to 28 U.S.C. § 2253(c) is DENIED as to each issue asserted.

Dated: April 10, 2019

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge

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JUDGMENT

In accordance with the Opinion and Order entered this date:

IT IS HEREBY ORDERED that Judgment is entered in favor of Respondents and against
Petitioner in this § 2254 proceeding.

Dated: April____, 2019

JANET T. NEFF
United States District Judge